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PABST PATENT GROUP 

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## TELEFAX

Date: December 8, 2008 Total pages: 11 including cover sheet

To: USPTO Telephone: Telefax: 571 273 8300

From: Rivka D. Monheit Telephone: 404-879-2152 Telefax: 404-879-2160

Our Docket No. ACU 109 CIP Client/Matter No. 077586-00027  
Your Docket No.

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### MESSAGE:

### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Julie Straub, David Altreuter, Howard Bernstein, Donald E. Chickering, III,  
Sarwat Khattak, and Greg Randall

Serial No.: 10/053,929 Art Unit: 1618

Filed: January 22, 2002 Examiner: Blessing M. Fubara

For: *POROUS DRUG MATRICES AND METHODS OF MANUFACTURE THEREOF*

### ATTACHMENT:

Transmittal Form – PTO/SB/21;  
Fee Transmittal Form – PTO/SB/17;  
Transmittal of Terminal Disclaimer, along with two (2) Statements Under 37, C.F.R. § 3.73(b);  
and Notice of Appeal

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PTO/SB/21 (09-04)

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TRANSMITTAL  
FORM

(to be used for all correspondence after initial filing)

TRANSMITTAL FORM  <i>(to be used for all correspondence after initial filing)</i>	Application Number	10/053,929
	Filing Date	January 22, 2002
	First Named Inventor	Julie Straub
	Art Unit	1618
	Examiner Name	Blessing M. Fubara
Total Number of Pages in This Submission	Attorney Docket Number	ACU 109 CIP

## ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached  <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers  <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input checked="" type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC  <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):  Two (2) Statements Under 37 C.F.R. 3.73 (b)
Remarks		

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Pabst Patent Group LLP		
Signature			
Printed name	Rivka D. Monheit		
Date	December 8, 2008	Reg. No.	48,731

## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature	
Typed or printed name	Candace C. Andrews
Date	December 8, 2008

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/17 (10-08)

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Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2006 (H.R. 4818).

**FEE TRANSMITTAL**  
For FY 2009 Applicant claims small entity status. See 37 CFR 1.27TOTAL AMOUNT OF PAYMENT (\$)  
**\$180.00****Complete If Known**

Application Number	10/053,929
Filing Date	January 22, 2002
First Named Inventor	Julie Straub
Examiner Name	Blessing M. Fubara
Art Unit	1618
Attorney Docket No.	ACU 109 CIP

**METHOD OF PAYMENT** (check all that apply) Check  Credit Card  Money Order  None  Other (please identify): \_\_\_\_\_ Deposit Account Deposit Account Number: **50-3129** Deposit Account Name: \_\_\_\_\_

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

 Charge fee(s) indicated below  Charge fee(s) Indicated below, except for the filing fee Charge any additional fee(s) or underpayments of fee(s)  Credit any overpayments  
under 37 CFR 1.16 and 1.17

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**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Small Entity	Fee (\$)	Small Entity	Fee (\$)	Small Entity	Fee (\$)	
Utility	330	165	540	270	220	110	
Design	220	110	100	50	140	70	
Plant	220	110	330	165	170	85	
Reissue	330	165	540	270	650	325	
Provisional	220	110	0	0	0	0	

**2. EXCESS CLAIM FEES**Fee Description

Each claim over 20 (including Reissues)

Small Entity

Fee (\$) Fee (\$)

52 26

Each independent claim over 3 (including Reissues)

220 110

Multiple dependent claims

390 195

Total ClaimsExtra Claims Fee (\$) Fee Paid (\$)Multiple Dependent ClaimsFee (\$) Fee Paid (\$)- 20 or HP = x = 

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims Extra Claims Fee (\$) Fee Paid (\$)- 3 or HP = x = 

HP = highest number of independent claims paid for, if greater than 3.

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$270 (\$135 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets Extra Sheets Number of each additional 50 or fraction thereof Fee (\$) Fee Paid (\$)- 100 - / 50 = (round up to a whole number) x = Fee Paid (\$)**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Terminal Disclaimer and Notice of Appeal (\$40), previously paid \$500 on April 9, 2007.

\$180.00

**SUBMITTED BY**

Signature	<i>Rivka D. Monheit</i>	Registration No. 48,731 (Attorney/Agent)	Telephone 404-879-2152
Name (Print/Type)	Rivka D. Monheit		Date December 8, 2008

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: Julie Straub, David Altreuter, Howard Bernstein, Donald E. Chickering, III,  
Sarwat Khattak, and Greg Randall

Serial No.: 10/053,929 Art Unit: 1618

Filed: January 22, 2002 Examiner: Blessing M. Fubara

For: *POROUS DRUG MATRICES AND METHODS OF MANUFACTURE THEREOF*

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**TRANSMITTAL OF TERMINAL DISCLAIMER  
AND NOTICE OF APPEAL**

Sir:

Responsive to the Office Action mailed on October 16, 2008, Applicants submit a Terminal Disclaimer and two (2) Statements under 37 C.F.R. §3.73(b). The Commissioner is hereby authorized to charge \$140, the fee a Terminal Disclaimer for a large entity, to Deposit Account No. 50-3129.

Applicants also submit a Notice of Appeal. The fee for a Notice of Appeal was previously paid on April 9, 2007. The fee for a Notice of Appeal has since increased from \$500 to \$540. The Commissioner is hereby authorized to charge \$40, the difference between the fee

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U.S.S.N. 10/053,929

Filed: January 22, 2002

**TRANSMITTAL OF TERMINAL DISCLAIMER  
AND NOTICE OF APPEAL**

for a Notice of Appeal that was previously paid and the current fee for a large entity, to Deposit Account No. 50-3129.

Applicants believe that no additional fee is due at this time. However, should an additional fee be required, the Commissioner is hereby authorized to charge the fee to Deposit Account No. 50-3129.

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U.S.S.N. 10/053,929

Filed: January 22, 2002

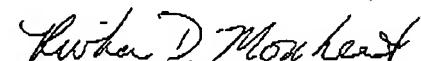
**TRANSMITTAL OF TERMINAL DISCLAIMER  
AND NOTICE OF APPEAL**

**Remarks**

Claims 16-21 and 34 were rejected under the judicially created doctrine of obviousness-type double patenting as being obvious in view of claims 1-13 and 19 of U.S. Patent No. 6,800,297 to Altreuter *et al.* In response, Applicants submit a terminal disclaimer to overcome the obviousness-type double patenting rejection.

Applicants are also submitting a Notice of Appeal and will submit an Appeal Brief to appeal the Examiner's final rejection of claims 16-21 and 34 under 35 U.S.C. § 103(a) over U.S. Patent Application Publication No. 2001/0018072 to Unger ("Unger").

Respectfully submitted,

  
Rivka D. Monheit  
Rivka D. Monheit  
Reg. No. 48,731

Date: December 8, 2008

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